

**TOWN OF NEWMARKET, NEW HAMPSHIRE  
TOWN COUNCIL REGULAR MEETING**

**February 3, 2016 7:00 PM**

PRESENT: Council Chairman Phil Nazzaro, Council Vice Chairman Gary Levy, Councilor Dale Pike, Councilor Amy Thompson, Councilor Toni Weinstein, Councilor Amy Burns, Councilor Larry Pickering

ALSO PRESENT: Town Administrator Steve Fournier, Public Works Director Rick Malasky

**AGENDA**

Chairman Phil Nazzaro welcomed everyone to the February 3, 2016 Newmarket Town Council Meeting and called the meeting to order at 7:01 pm, followed by the Pledge of Allegiance.

**PUBLIC FORUM**

Chairman Nazzaro opened the Public Forum at 7:02 pm, and announced that a representative of Linked Together was present.

Ms. Jillian Long stated that Linked Together Service Learning was now holding their annual Teens for Jeans Drive in Newmarket. She said that prizes for this year would be different with \$3,000 for grand prize, \$2,000 for second place, and \$1,000 for third place. She said that they would be working with Realtor Melani Taillon of Zoeller Realty to help ensure the success of the event, as they had lost their sponsor of last year. She said the drive would run from January 1<sup>st</sup> to February 29<sup>th</sup>, and at the end of the drive all the jeans collected would be taken to homeless shelters in the area. She said community members who wanted to help them earn \$3,000 for the School District could bring their jeans to Linked Together in the Newmarket Elementary School between 3-6 pm Monday through Friday. Ms. Long said they had used Facebook pages, posters, flyers, and letters to get the word out, and that they were challenging every member of the Town Council to bring 10 pairs of jeans each by February 17<sup>th</sup>. She asked the Town Council if they would accept the challenge.

The Town Council accepted the challenge and Chairman Nazzaro thanked Linked Together for all their contributions to the community.

Chairman Nazzaro closed the Public Forum at 7:04 pm.

**PUBLIC HEARING** – None

**TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES**

**Acceptance of the Minutes of the Regular Meeting of January 20, 2016**

Councilor Weinstein made a motion to accept the minutes of the regular meeting of January 20, 2016, which was seconded by Councilor Thompson.

Corrections/Changes: Vice Chair Levy requested a correction to his statement on page 7 under the discussion of *Resolution #2015/2016-31*, line 291. The sentence was corrected to read: "Vice Chair Levy questioned how MRI would receive input from the Council and asked if that would be included as part of the cost for this contract."

Town Administrator Fournier polled the Council and the minutes of the regular meeting of January 20, 2016 were approved as amended by a vote of 7-0.

## **REPORT OF THE TOWN ADMINSTRATOR**

Town Administrator Steve Fournier first addressed the change of location for the **Presidential Primary** as a result of the significant water leak that occurred at the Newmarket High School making the gymnasium unusable for 90 days. He said they had determined that the Fire Station bays were the only location large enough to hold the expected crowds, and stated that the election would be held at the Fire Station on Young Lane off New Road. He said parking would be allowed in front of the bays and would be signed, and police would be directing traffic at the intersection of New Road and Route 108 during rush hour and assisting with the parking. In the event of a winter storm, police would be directing the parking as they would not be able to sign the spaces. Town Administrator Fournier also reminded political supporters that campaign signs could not be placed on Town Land without specific permission, as they may interfere with sight lines. He reminded people to remove the signs after the election, and added that any missing signs could be picked up at the Public Works Facility. Town Administrator Fournier said he would be resending the schedule for the Councilors for the primary on Tuesday, and also for the March 8<sup>th</sup> Election which would be held in the Town Hall. Councilor Weinstein thanked Town Administrator Fournier for all his efforts to get the word out about the election. Councilor Pickering asked if the burst pipe was a result of a heat situation, and Town Administrator Fournier said he understood that the pipe was in a storage area that may have been exposed to cold, and that significant water had come out when the room was opened

Town Administrator Fournier stated that on January 26<sup>th</sup> he had testified in favor of **Senate Bill 328** which would allow School Districts to share services with other Public Agencies. He said that the senators were surprised that municipalities could share services with other municipalities but could not enter into municipal agreements with schools. He said that under State Law, as they were not a home-rule state, they could only do what was allowed and they had wanted it to be clearly stated that this would be permissible. He said there was a good contingent of municipal and school officials in favor of the bill and he would keep the Town Council posted of any developments.

Town Administrator Fournier next addressed questions which had arisen at the last meeting with regard to the **Macallen Dam**. He explained that the reason the Macallen Dam Study Committee had recommended entering into an agreement with Gomez & Sullivan was that after they had reviewed the work of Wright Pierce they felt there may be some errors. He said that though the 100-year flood flow was not one of the charges of Gomez & Sullivan, they were using that data in their modeling to determine the impact of the removal of the dam. Town Administrator Fournier stated that they would be hiring

Gomez & Sullivan to review the calculations of Wright Pierce with the State to make sure the 10,260 cfs (cubic square feet per second) Wright Pierce negotiated with the State was correct. He provided a timeline of the project starting with the New Hampshire Department of Environmental Services (DES) 2007 Inspection Report which cited the 100-year flood flow at 8,302 cfs. Following hydraulic modeling work conducted by Wright Pierce in 2013, the Town and the DES agreed to a 100-year flood flow of 10,259 cfs. In 2014 Gomez & Sullivan raised questions regarding the accuracy of the methods used by Wright Pierce to determine the 10,259 cfs figure, and believed a re-evaluation of their model would result in a 25% lower figure which would reduce the cost of compliance with the New Hampshire DES Letter of Deficiency.

### **Macallen Dam Study Committee**

Councilor Pike reported on the *Macallen Dam Study Committee* meeting of January 29<sup>th</sup>. He stated that Gomez & Sullivan were not really saying that Wright Pierce made errors. He said that the Lamprey River was a very complex system with some things still evolving and changes being seen with increasing time. He said that one example was the weir coefficient, or how much water would pass over the dam at a certain depth, and explained that modifications were suggested to fit the flow patterns they were now seeing. He said it had been discussed that Route 108 acted essentially as a “dam” for the Lamprey River, and that historically the water headed to the Oyster River with less coming over the Dam. He said they had also discussed how the impact of redoing Route 108 and the impact of work planned for Longmarsh Road by the Town of Durham would affect the flow numbers. He said that even if the 100-year flood flow did not change, there were other factors involved. He said when Wright Pierce ran the 100-year flood flow models for what would happen under flood conditions, they modeled with the gates open. He said part of what the State requires is that it cannot be something that involves human intervention, and that they probably should have run the numbers with the gates closed. He stressed that Gomez & Sullivan were hired to study what would happen when the dam was taken out, not what would happen with the dam there during flooding.

Councilor Pike said that one model showed that under 100-year flood conditions water would go over the existing abutments, and that the dam modifications they hoped to make could be challenged by Durham objecting that more water would be flowing towards Durham. He said that since water did not go over the abutments during the last flood, raising the abutments to armor the Dam should not be able to be challenged based on flow. He said they might also see some benefits due to alterations on Longmarsh Road. Councilor Pike stated that it was the sentiment of the Dam Committee that they would benefit from using the expertise of Gomez & Sullivan to meet with the Dam Commissioner so that everyone would be in agreement as to the assumptions, reasons, and numbers. He said he felt it was worth spending the additional \$4,000 or \$5,000 to assure the accuracy of the numbers and to get things nailed down.

Discussion: Vice Chair Levy asked why Wright Pierce would not take into consideration the issues brought up by Gomez & Sullivan and review their methodology, since the Town had already paid them. Councilor Pike said that no one was claiming Wright Pierce had not done good work in their report. He said that originally the DES required a stability analysis which depended on many of these numbers, and that three (3) engineering firms had presented information that was not close enough for the Committee to evaluate, and they did not feel comfortable going forward with the stability analysis without having these numbers nailed down. He said he did not think Vice Chair Levy’s request was unreasonable, but he felt they had a

good plan and were comfortable moving forward. Vice Chair Levy asked Town Administrator Fournier for his opinion, and he replied that he did not think Wright Pierce would be willing to change their numbers. He said that Gomez & Sullivan had gone through the methodology and felt that before they took the next step they should look at the numbers again and come up with a figure, and that the State had agreed that this was a good plan. Councilor Pike said that Gomez & Sullivan had the advantage of having the work of Wright Pierce available while they were working on the dam removal analysis, and he felt Gomez & Sullivan was in the best position to complete this analysis in a relatively short period of time. Vice Chair Levy asked how Gomez & Sullivan defined "substantial reduction in costs" with regard to the abutments. Councilor Pike said they had never mentioned a number for the cost, and Town Administrator Fournier explained that they could not assess the costs until the structural analysis was done and they had not yet reached that point.

Chairman Nazzaro said the numbers before were looking at \$1.2 million with the dam removal. Councilor Pike said it seemed like Wright Pierce wanted to say it was impossible to remove the Dam as all their numbers were with one foot going over the dam, and that they needed to raise the concrete abutments to allow more water to go over. He said the State thought we would want to widen the spillway in the end by taking out the gates to make it easier to meet our numbers. He said Gomez & Sullivan felt that we may not have to alter the gates and should not mess with the spillway but just concentrate on the abutments which would save us money. Public Works Director Rick Malasky stated that the missing link Gomez & Sullivan could provide might greatly reduce the number of cfs required to pass with the Dam Bureau and felt it was definitely to their advantage. Councilor Pike said the changes would likely make the cfs lower, though he could not hold to the 25%. He said the Dam Committee wanted strong agreement around all the numbers and felt they were best served by Gomez & Sullivan, and that they would then be able to move forward from a stronger position.

Town Administrator Fournier stated that they were going to court on Friday for the case of the Town versus the Eagles, and he hoped for some resolution

## **COMMITTEE REPORTS**

Councilor Thompson reported that the *Budget Committee* had its final meeting Monday night to finalize meeting minutes and wish everyone well. She said there were three (3) seats open on the Committee and that Mr. Dave Foltz and Mr. Blue Foster were running again but that Mr. Mike Lang was not. She said they had wished Mr. Lang well and thanked him for his service to the Committee.

## **OLD BUSINESS**

### **ORDINANCES AND RESOLUTIONS IN THE 2<sup>ND</sup> READING**

#### **Resolution #2015/2016-32 Amending Transfer Station Collection Fees**

Councilor Weinstein made a motion to approve *Resolution #2015/2016-32 Amending Transfer Station Collection Fees*, which was seconded by Councilor Burns.

Public Works Director Malasky stated that a new contract had come up and they were reviewing the costs at the Transfer Station. He said there were a few changes in electronics and said that the scrap metal market had gone by the wayside although they were not yet charging for it. He said the big thing was that dump trailers were getting more and more popular and he decided to add them as they did not yet have a facility schedule for them. He explained that they were pretty large trailers which were listed as “non-commercial utility trailers” in the resolution, and said the fees were based on what usually came in. He stated that they had increased the fee for appliances and computer monitors from \$5 to \$10 each, with miscellaneous electronics priced by the pound. He said there had been no changes to the fees since 2004 and that the increases would help cover the costs associated with operating the Transfer Station. He said it would take about a week to order the new coupons and that the sign outside the facility would be updated with the changes.

Discussion: Councilor Pike said that he owned a 4x8 utility trailer which was approximately the size of a pickup truck and asked if that was what they were talking about. Public Works Director Malasky replied that the dump trailers he was describing were 12 feet or larger. Chairman Nazzaro asked if there was a definition of a “dump trailer”, and Town Administrator Fournier said the closest he could find was a utility trailer. Chairman Nazzaro asked what the cut-off would be, and Public Works Director Malasky said it was a dump truck on a trailer which was backed up and dumped by piston action like a dump truck. Councilor Weinstein asked how the fees compared with other communities, and Public Works Director Malasky replied that he did not check with other towns but based the fees on the amount coming in and the space taken up in the can.

Town Administrator Fournier polled the Council and *Resolution #2015/2016-32 Amending Transfer Station Collection Fees* was approved by a vote of 7-0

**ITEMS LAID ON THE TABLE - None**

**NEW BUSINESS/CORRESPONDENCE**

**TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS**

**Macallen Dam Study Committee**

**Candidate:** *Kathryn Nelson - Term Expires March 2018*

Councilor Weinstein made a motion to approve the nomination of *Kathryn Nelson - Term Expires March 2018* as a member of the *Macallen Dam Study Committee*, which was seconded by Councilor Burns.

Ms. Kathryn Nelson of 15A Water Street briefly addressed the Council. She said she had served on a number of different committees before and that she had lived in Newmarket for 1 ½ years, coming from Nashua. She said that she was not an engineer but that she had served on committees where she had to review engineering numbers and had a grasp of understanding. She said she felt the framework and assumptions of Gomez & Sullivan were slightly different from Wright Pierce and they had put forth a reasonable argument which seemed prudent and would save money for the Town. She said that Town

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Planner Diane Hardy had reached out to her and she felt the Dam Committee would be a perfect fit for what she enjoyed doing.

Town Administrator Fournier polled the council and the nomination of *Kathryn Nelson - Term Expires March 2018* was approved unanimously, 7-0.

Councilor Weinstein made a motion to seal the minutes of the Non-Public Session which was seconded by Councilor Burns.

#### **ORDINANCES AND RESOLUTIONS IN THE 1<sup>ST</sup> READING**

**Resolution #2015/2016-33 Authorize the Town Administrator to Purchase a Bucket Truck for the Highway Department and Enter into any Related Contracts, For a Price Not to Exceed \$84,056**

Chairman Nazzaro read *Resolution #2015/2016-33 Authorize the Town Administrator to Purchase a Bucket Truck for the Highway Department and Enter into any Related Contracts, for a Price Not to Exceed \$84,056* in full.

#### **CORRESPONDENCE/CLOSING COMMENTS**

Councilor Burns said that she, along with Councilor Weinstein, were helping with a Kayak Event that was being planned by the Recreation Department. She said the next meeting would be held Monday, February 8, 2016 at 6:00 pm at the Recreation Center, and that anyone interested in helping with the planning would be welcome. Councilor Weinstein said that Assistant Recreation Director Aimee Girandet also had other ideas she was interested in spearheading, like Arts in the Park and a reconsidering of Old Home Day, and was trying to get support from the community.

Councilor Weinstein said that at the last School Board Meeting some dates were discussed for the joint yearly meeting with the Town Council. Chairman Nazzaro said there had been some push-back on their part to have the meeting in March instead of February. He said that since they would have the same Town Council, except for Councilor Pickering, and the same School Board, there was now less of an opportunity for this Council to have a voice.

#### **NEXT MEETING**

Chairman Nazzaro announced that the next meeting would be held on February 17, 2016 at 7:00 pm.

#### **ADJOURNMENT**

Councilor Pike made a motion to adjourn the meeting, which was seconded by Councilor Thompson. The meeting was adjourned at 7:55 pm.

Respectfully submitted,

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Patricia Denmark, Recording Secretary

**Approved: February 17, 2016**